

Sunset Public Hearing Questions for
Board of Examiners for Nursing Home Administrators
Created by Section 63-16-102, *Tennessee Code Annotated*
(Sunset Termination June 2022)

Enabling Statute, Purpose, and Rules and Regulations

1. Please provide a brief introduction to the board including information about its purpose, statutory duties, staff, and administrative attachment.

The Board of Nursing Home Administrators (“the Board”) was created in 1970 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice nursing home administration within this state to be qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Board is responsible for the investigation of alleged violations of the practice act and of the rules and is responsible for the discipline of licensees who are found guilty of such violations.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules. Licenses can be renewed online seventy (70) days prior to expiration. Renewal notices are generated seventy (70) days prior to expiration and mailed or emailed from the Board’s administrative office to either the current physical address or email address on record, based on the licensee’s choice of delivery method. Failure to renew by the expiration date may result in a fine.

The Board meets four (4) times per year. The meetings are open to the public. The Governor appoints all members of the Board. The Board consists of eight (8) members, as follows: four (4) members shall be representatives of the nursing home industry, one (1) member shall be a hospital administrator, one (1) member shall be a physician, one (1) member shall be a nurse, and one (1) member shall be a consumer representative. In addition to the eight (8) Board Members appointed by the Governor, the commissioner of health or the commissioner’s designated representative shall serve as an ex officio member and as the executive officer of the Board.

2. Has the board promulgated rules and regulations? If yes, please cite the reference(s).

Yes, the General Rules Governing Nursing Home Administrators is found in Chapter 1020-01.

Board Organization

3. Provide a list of current board members and explain how membership complies with Section 63-16-102, *Tennessee Code Annotated*.

Member	Representation	Term Beginning	Term Ending	Consecutive	Demographics
Sally Pitt, Interim Health Care Facilities Director	Commissioner's Designee, ex officio member	N/A	N/A	N/A	N/A
Nyda Bays	Nursing Home Representative	06/01/2019	05/31/2022	Yes	60+ years, Non-Minority, Female, East TN
Lakecia Harper	Nursing Home Representative	05/21/2018	05/31/2021	Yes	Under 60 years, Minority, Female, Middle TN
Jano Janoyan, D.O.	Physician	07/18/2018	05/31/2021	Yes	Under 60 years, Non-Minority, Male, East TN
David Keeling	Nursing Home Representative	10/01/2019	05/30/2022	No	Under 60 years, Non-Minority, Male, West TN
Victor Legner	Hospital Administrator	11/19/2020	05/31/2023	No	Under 60 years, Non-Minority, Male, Middle TN
Bethany Rhoten	Nurse	11/19/2020	05/31/2023	No	Under 60 years, Non-Minority, Female, Middle TN

4. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

There are (3) board member positions that expired in May 2021 and one (1) consumer member position that expired in May of 2020. Each member can serve on the committee until a successor is appointed. Notice was made to the Governor's Office of the vacancies, and all are currently in the appointment process.

How many times did the board meet in each of the last two fiscal years?

The Board met four (4) times in FY19. The Board met four (4) times in FY20.

5. How many members were present at each meeting? Please note meetings where the board did not have a quorum.

Fiscal Year 2019		
Meeting Date	# Board Members	Quorum
08/06/2018	7	Yes
11/05/2018	5	Yes
03/04/2019	8	Yes
06/03/2019	5	Yes

Fiscal Year 2020		
Meeting Date	# Board Members	Quorum
08/05/2019	5	Yes
12/02/2019	6	Yes
03/02/2020	7	Yes
06/01/2020	7	Yes

Financial Information

6. What were the board's revenues and expenditures for the last two fiscal years? Does the board carry a reserve balance? If so, please provide additional relevant information regarding the reserve balance, including whether the board is self-sufficient.

For FY 2019, the Board had revenues of \$78,550.00 and total expenditures of \$66,609.82, with a reserve balance of \$203,442.03.

For FY 2020, the Board had revenues of \$103,821.71 and total expenditures of \$74,671.35, with a reserve balance of \$226,258.51.

The Board is self-sufficient.

7. Do board members receive per diem or travel reimbursements? How much was paid to individual board members in each of the last two fiscal years?

Board Members are paid fifty dollars (\$50.00) per diem. Travel reimbursements are paid according to the Department of Finance and Administration's Comprehensive Travel Regulations. The per diem and travel amounts for each Board Member listed below represents the amounts paid from July 1, 2018, through June 30, 2020.

Board Member Name	FY19 Per Diem Total	FY19 Travel Total	FY20 Per Diem Total	FY20 Travel Total
Juanita T. Honeycutt	\$200	\$1,396.76	\$0	\$414.46
Barbara B. Trautman	\$100	\$895.63	\$100	\$888.53
Marilyn C. Key	\$100	\$142.88	\$100	\$380.37
Cynthia L. Wheeler	\$100	\$490.99	\$150	\$383.52
Lakecia Harper	\$150	\$16.92	\$100	\$1,568.26
Jano Janoyan, D.O.	\$150	\$1,275.15	\$50	\$422.67
Nyda A. Bays	\$200	\$2,193.66	\$50	\$519.67
David Keeling	\$0	\$0	\$100	\$889.48
Dr. Florence Weierbach	\$0	\$0	\$0	\$0

8. Does the board collect fees? If yes, provide relevant information about fees collected. Indicate whether fees were established through rule or through state law.

The Committee has established rules with the authority granted by statute to collect fees. The following fees are collected:

Fee Category	Fee Amount	Rule or Statute
Application Fee	\$300	Rule
License Renewal Fee	\$150	Rule
State Regulatory Fee	\$10	Rule
Late Renewal Fee	\$200	Rule
Duplicate License Fee	\$50	Rule
Certificate of Fitness Fee	\$50	Rule
Jurisprudence Examination Fee	\$150	Rule

Sunshine Law, Public Meetings, and Conflict of Interest Policies

9. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?

The Board is subject to Sunshine law requirements of Tenn. Code Ann. 8-44-101 et seq. A public meeting notice is posted to the Board's website by the 15th day of the month proceeding the month of the meeting date as well as posting the information on the Public Participation Calendar. The Board's administrative staff attends all meetings and takes

minutes. Those minutes are then prepared for review and ratification by the Board at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the Board's website.

10. Does the board allow public comment at meetings? Is prior notice required for public comments? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?

Board meetings are conducted in full view of the public pursuant to a sunshine notice, which provides information for the location of the meeting— whether the meeting is held in person or via remote/teleconference means— a link to remotely view live-streaming of the meeting and notice of agenda items. The meeting is guided by this published agenda. The Board will recognize members of the public who request to be heard on a matter properly noticed before the Board.

Additionally, all health-related boards have instituted a sign-in sheet procedure at the meeting location that would permit members of the public to make time-limited comments on matters properly noticed and before the Board for consideration. Discussion of matters not receiving proper notice would violate the sunshine laws of Tennessee. Therefore, should a member of the public have a topic or comment that requires discussion, the most effective practice is to make the request known to the board administrator or director in advance to have the matter placed on the agenda and monthly sunshine notice. The Board also accepts and reviews letters to the Board as another means of addressing questions/concerns raised by the public and stakeholders. Meetings held virtually invite public comment during each meeting and recognize all listed as attendees.

A video recording of the meeting is placed on the Board's website within 24-48 hours of the meeting and is also available on the Department's web site for approximately one month following the meeting. An audio recording of the meeting is also available upon request.

11. Does the board have policies to address potential conflict of interest by board members, employees, or other state employees who work with the board?

Yes. All Board Members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to the policy. Board Members are required to sign a Conflict of Interest Statement upon appointment or as soon as practical and annually thereafter. It is the responsibility of the board administrator to ensure that the Conflict of Interest Statement is properly and timely signed. Board staff is required to sign a new Conflict of Interest statement annually. The Board's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

Licensure and Oversight Responsibilities

12. How many nursing home examiners are there in the state of Tennessee? Are they all under the authority of this board? If not, what types of practitioners are not and should they be included under the board's authority?

At the close of FY19, there were 661 licensed Nursing Home Administrators and 46 individuals actively pursuing licensure through Board-approved participation in an Administrator in Training program.

At the close of FY20, there were 710 licensed Nursing Home Administrators and 50 individuals actively pursuing licensure through Board-approved participation in an Administrator in Training program.

13. How many new applications for licenses has the board received in each of the last two fiscal years? If necessary, please differentiate by type or category.

In FY19, there were twenty-six (26) new applications for licensure as a Nursing Home Administrator and one hundred thirty (130) new applications to begin an Administrator in Training Program.

In FY20, there were forty-four (44) new applications for licensure as a Nursing Home Administrator and thirty-one (31) new applications to begin an Administrator in Training Program.

14. How many license applications did the board deny during each of the last two fiscal years? What were the reasons for denial?

No applications were denied in FY19 or FY20.

15. What was the total number of complaints received by the board in each of the last two fiscal years? If available, please provide information on the number of consumer complaints as well as the number of administrative complaints.

In FY19, there were fifteen (15) new complaints opened. All fifteen (15) complaints were consumer complaints.

In FY20, there were thirteen (13) new complaints opened. There were ten (10) consumer complaints and three (3) administrative complaints.

16. Describe the process by which the board receives, handles, and tracks complaints. For example, are complaints rated by level of seriousness or other priority-handling method? Is a complaint log maintained? What benchmarks have been established for timely resolution of complaints? Are all complaints resolved timely?

The Committee receives complaints through the Office of Investigations. The Office of Investigations maintains a website with instructions on how to file a complaint. This website allows the public to provide complaints electronically, by phone, mail, or fax. All complaints are entered into a database system upon receipt and are assigned to the Committee's complaint coordinator. Each complaint is reviewed by the Committee's consultant and attorney to determine if the allegation constitutes a violation of the Committee's practice act and rules.

If it is determined that the allegation would constitute a violation of the practice act or rules, the consultant and attorney will request that the allegation be investigated by a trained investigator with the Department of Health. Complaints that involve the potential for immediate jeopardy to the public are prioritized. All complaints have a 90-day benchmark for completion. Complaints are completed within the assigned benchmark when possible; however, 30-day extensions are granted in instances when additional time is needed to complete a thorough investigation due to issues such as witness availability and receipt of medical records from a third party.

Once investigated, the investigative report and all evidence obtained are provided to the consultant and attorney where they review it together to determine if there is evidence to support the violation alleged by the complainant. If so, the consultant and attorney discuss the appropriate level of discipline that is proportionate to the violation, and the licensee is provided with an opportunity to agree to that discipline. The licensee also has the right to reject the Committee's proposed discipline and request a formal contested case hearing before the Committee.

Not all complaints are assigned for investigation. In instances where the consultant and attorney find that the complaint does not violate the practice act and investigation is not necessary, the file is closed, and the complainant is notified in writing. Complaints that fall outside the jurisdiction of the office of investigations are forwarded as appropriate.

17. Please describe how the board takes disciplinary action against practitioners who are found to have violated statutes and/or the board's rules and regulations.

If the consultant and attorney determine that the investigative report and evidence substantiate that a licensee has committed a violation of the practice act and/or rules that rises to the level of public discipline, the case will be transferred to the Office of General Counsel for prosecution.

Formal discipline of a licensee can consist of a reprimand, probation, suspension, voluntary surrender, revocation, and summary suspension. The licensee can also be assessed civil penalties that range from \$50.00-\$1,000.00 per violation; required to complete continuing education hours in addition to those required to maintain licensure and assessed the costs for the investigation and presentation of the matter.

There are several procedural avenues by which disciplinary matters may come before the Committee:

Consent Orders—Presents the licensee an opportunity to resolve the matter by agreement, making formal proceedings unnecessary. By signing the Consent Order, the licensee waives the right to a contested case hearing and any and all rights to judicial review in the matter and agrees to the presentation and consideration of the Consent Order by the Committee for ratification at the scheduled public meeting. After the Committee approves the public disciplinary action, the Office of General Counsel sends a copy of the order to the Disciplinary Coordinator. The Disciplinary Coordinator changes the licensure status in the LARS database as appropriate, posts the disciplinary action on the public website for the health related boards, and reports the disciplinary action to the National Practitioner Databank. The Disciplinary Coordinator also monitors the case as appropriate to ensure that the Respondent complies with the terms of the order and reports the action on the monthly disciplinary action report. Should the Committee fail to ratify the Consent Order, formal disciplinary proceedings will be initiated, and the licensee is notified of such.

Agreed Orders—When a licensee has requested a formal disciplinary hearing in lieu of settling the matter by Consent Order and then requests to settle the matter prior to the formal proceeding taking place, an Agreed Order allows the licensee to waive the right to a contested case hearing and any and all rights to judicial review in the matter. The Agreed Order is presented to the Committee for ratification at the scheduled public meeting. After the Committee approves public disciplinary action, the Office of General Counsel sends a copy of the order to the Disciplinary Coordinator. The Disciplinary Coordinator changes the licensure status in the LARS database as appropriate, posts the disciplinary action on the public website for the Health Related Boards, and reports the disciplinary action to the National Practitioner Databank. The Disciplinary Coordinator also monitors the case as appropriate to ensure that the Respondent complies with the terms of the order and reports the action on the monthly disciplinary action report. Should the Committee fail to ratify the Agreed Order, formal disciplinary proceedings will be initiated, and the licensee is notified of such.

Contested Cases—Formal disciplinary hearings in which the Committee sits as jury. An Administrative Law Judge presides and makes evidentiary rulings and instructs the Committee as to procedure. Committee members may question witnesses. The licensee, known as the “Respondent,” is prosecuted by a litigating attorney from the Office of General Counsel who represents the State, just as a prosecutor in a criminal court represents the State. A licensee always has the right to legal counsel.

18. How many licenses did the board revoke or suspend during each of the last two fiscal years? What were the reasons for the revocations or suspensions?

No licenses were revoked or suspended in FY19 or FY20.

19. Does the board maintain reciprocal agreements with other states to recognize associated professions who are licensed under the laws of other states such that these individuals may practice in Tennessee?

The Board does not maintain reciprocal agreements with other states.

Reports, Major Accomplishments, and Proposed Legislative Changes

20. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last two fiscal years.

The Board reports licensure, legislative and general updates on the following hyperlink: <https://www.tn.gov/health/health-program-areas/health-professional-boards/nha-board.html>. The Board reports its disciplinary action to the Department of Health for inclusion in the Monthly Disciplinary Action Report. The Board also reports its disciplinary action to the Office of Investigations, for the purpose of reporting to the National Practitioner Databank, when required by law. The Disciplinary Action Report can be found at the following hyperlink: <https://www.tn.gov/health/health-professionals/health-professionals-boards-disciplinary-actions.html>.

21. What were the board's major accomplishments during the last two fiscal years?

The Board continued to successfully hold meetings during a pandemic, inclusive of conducting all necessary board business, such as applicant interviews, ratification of licenses, and review of applicant and public requests and inquiries. Board Members learned new means of electronic communication utilized in virtual meetings. The Board ensured that the public had access to view and participate in the Board meetings during the COVID-19 pandemic through the virtual meeting platform.

22. What, if any, challenges has the board addressed in the last two fiscal years?

FY 2019 held no substantial challenges for the Board. However, FY 2020 has made way for certain challenges for the Board, as a result of March tornadoes and the COVID-19 pandemic. These challenges and their resolutions have included:

- 1) Hesitancy and concern from board members over conducting Board meetings via an in-person format, due to their own personal high-risk status or travel/overnight stay concerns during the pandemic.
 - a. Executive Order #16 and subsequent extensions, allowing for meetings to be held via remote teleconference means, provided the resolution required for this challenge.
 - 2) Obtaining in-person continuing education hours as required for the maintenance of a license, due to live events being cancelled or converted to an online format.
 - a. Executive Order #50 and the subsequent Commissioner's Policy regarding the audit of in-person continuing education for calendar year 2020 and calendar year 2021 provided the resolution required for this challenge.
23. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

No legislative action is needed at this time.

24. Should the board be continued? To what extent and in what ways would the absence of the board affect the public welfare of the citizens of Tennessee?

Yes, to promulgate rules and policies related to the practice of nursing home administrators. Without the presence of the Board, members of the public whose healthcare is provided in settings with a Nursing Home Administrator would be uncertain that the administrator is fully qualified to practice his or her profession and that he or she does so in a safe and ethical manner.

25. Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Brent Culberson Assistant Commissioner, Office of Legislative Affairs
Elizabeth Foy, Legislative Liaison
Jennifer Putnam, Assistant Commissioner, Health Licensure and Regulation
Alicia Grice, Fiscal Director, Health Licensure and Regulation
Kimberly Wallace, Board Director
Kyonzte Hughes-Toombs, Deputy General Counsel

26. Please identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Jennifer Putnam, Assistant Commissioner, Health Licensure and Regulation
Elizabeth Foy, Legislative Liaison
Alicia Grice, Fiscal Director, Health Licensure and Regulation
Kyonzte Hughes-Toombs, Deputy General Counsel
Lakecia Thomas, Board Chair

27. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

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